

REMARKS

Priority Claim

With the above amendment, the pending application now claims priority to provisional application Serial No. 60/135,094 and has an effective filing date of December 22, 1997. This is prior to the filing date of Regan et al., U.S. Patent 6,080,763. Based on the present record, (Applicants reserve the right to file a declaration under 37 CFR §1.131 to antedate Ragan U.S. 6,080,763.) the only disclosure within U.S. Patent 6,080,763 which should be relied on to reject the pending claims is that which is entitled to the priority date of November 3, 1997, from the claim to priority of provisional application 60/064,102. The written description of a provisional application does not necessarily support a non-provisional application. See: *New Railhead Manufacturing LLC v. Vermeer Mfg. Co.*, Fed Cir. No 02-1028, July 30 2002. Portions of the disclosure relied on within U.S. Patent 6,080,763 (col. 6 -19 and claims 1-8) do not appear in the priority document. For example, not all of the partial chemical formulas in column 10 of U.S. 6,080,763 appear in the priority document and the priority document does not contain some of the specific language used in U.S. Patent 6,080,763.

Notice of the Examination

Applicants acknowledge that method claims 17-30 were examined to the extent they read on the elected specie (compound 21 of table 1) and compounds 1, 3-5, 8, 10, 13-16 of Table 1 of the specification. Claims 17-30 define compounds more closely related to the elected specie, which was found to be allowable, than compounds 1, 3-5, 8, 10 and 13-16 of Table 1. The compounds identified in Table 1 to which the search was extended have a single phenyl ring for "B" of formula I. The elected specie (compound 21) and the compounds of claims 17-30 have "B" of formula I equal to a structure with two rings. The methods of claims 17-30 do not encompass the use of compounds 1, 3-5, 8, 10 and 13-16 of Table 1 and therefore, the rejection based on the use of these compounds is not applicable to claims 17-30.

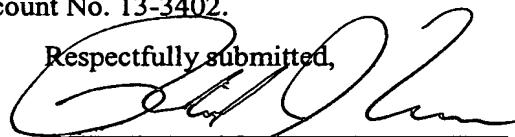
Rejection Under 35 USC §103

Based on the claim to priority above, Applicants maintain that the rejection based on Regan et al (U.S. Patent 6,080,763) can not be maintained. Only those portions of the Ragan et al. '763 reference supported by the provisional application are effective as prior art. Applicants submit the portions relied to support the rejection contain new matter such that the rejection should be withdrawn or modified.

The methods of claims 17-30 employ compounds which have two ring structures on each side of the urea functional group, as does the elected specie. Methods which use these compounds are clearly unobvious in view of the complete disclosure within U.S. Patent 6,080,673 such that claims 17-30 are allowable independent of the effective date of the disclosure within U.S. Patent 6,080,673.

Based on the above remarks, Applicants request reconsideration of the rejection of claims 1-30 under 35 U.S.C. §103.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.


Respectfully submitted,

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